

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15449 of J. Kyle Enterprises, as amended, pursuant to 11 DCMR 3108.1, to change an existing nonconforming use from real estate office to an office of a nonprofit organization, first floor only, in the R-4 District at premises 140 F Street, S.E., (Square 1043, Lot 121).

HEARING DATE: February 20, 1991
DECISION DATE: April 3, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property is located on the north side of G Street between 14th Street and Pennsylvania Avenue, S.E. and is known as premises 1340 G Street, S.E. It is zoned R-4.

2. The property is rectangular in shape with a frontage of 20 feet along G Street and a depth of 75 feet for a total lot area of 1,500 square feet. The property is immediately abutted by public alleys to the west and north of the site. Each public alley is 20 feet wide.

3. The property is improved with a two-story plus basement, brick, semi-detached structure with a storefront bay window and two entrances. The first floor of the subject structure is currently used as a real estate office pursuant to Certificate of Occupancy No. B133380 dated December 1, 1982. The second floor of the structure contains one residential unit which is vacant. The basement is located below grade.

4. The square in which the subject property is located is split-zoned. The eastern portion of the square, including the subject site, is zoned R-4 which allows matter-of-right residential development including single-family detached, semi-detached, and row dwellings, flats, and conversions of buildings existing prior to 1958 to apartments with a minimum of 900 square feet of lot area per unit. The western portion of the square is zoned C-2-A which allows office use and neighborhood shopping and business uses.

5. The square is generally developed with residential row dwellings in the eastern portion and commercial uses in row structures along the western portion of G Street, 13th Street and along Pennsylvania Avenue.

6. The applicant originally sought a variance from the use provisions to change the existing nonconforming real estate office to general/nonprofit office use and extend that use to the second floor of the subject structure. The applicant amended the application at the public hearing to seek a special exception to change the existing real estate office to general/nonprofit office use, first floor only. The second floor would remain residential. The basement would provide storage space.

7. The applicant proposes to use the first floor as office space for a nonprofit organization which provides social services for mentally and physically handicapped persons.

8. The proposed office use would serve as headquarters for administrative personnel and client counseling and needs assessments. Both the existing and proposed uses are first permitted as a matter-of-right in the C-1 District.

9. No on-site parking is provided. The site is well-served by public transportation along Massachusetts Avenue and by the Potomac Avenue Metrorail station. Both sides of G Street are subject to residential permit parking from 7:00 a.m. to 8:30 p.m., Monday through Friday.

10. The proposed office use would have a staff of approximately six persons, the majority of whom are expected to use public transportation to the site. Approximately two clients per day are transported in a specially equipped van for counseling and evaluation at the site.

11. The proposed hours of operation are from 8:00 a.m. to 6:00 p.m., Monday through Friday.

12. Trash is picked up by a commercial trash service at least once per week.

13. The proposed tenant has no need to advertise its services so any signage at the subject site would be minimal.

14. The applicant testified that the proposed office use is more in keeping with the residential character of the area to the east of the site for the following reasons:

- a. The proposed tenant is providing support services for mentally and physically handicapped individuals which is in the public interest.

- b. The proposed use would be less intensive than the previous real estate office use in that it would have fewer employees, fewer visitors to the site, and would not have evening and weekend hours.
- c. There will be no exterior modification to the site except for general cosmetic improvements.

15. The Office of Planning (OP), by memorandum dated February 12, 1991, recommended denial of the use variance, as initially proposed. The OP did not address the standards relative to the requested special exception relief.

16. The Department of Public Works (DPW), by memorandum dated January 23, 1991 offered no objection to the granting of the application. The DPW was of the opinion that, from a transportation perspective, the project would have a negligible impact on neighborhood streets.

17. The Department of Finance and Revenue, by memorandum dated January 16, 1991, offered no objection to the subject application.

18. The Metropolitan Police Department (MPD), by letter dated December 12, 1990, did not oppose the subject application. The MPD was of the opinion that the proposal would not affect the public safety in the immediate area nor generate an increase in the police services currently provided.

19. By memorandum dated December 11, 1990, the D.C. Fire Chief offered no objection to the subject application. The Fire Chief was of the opinion that the proposal would not adversely impact emergency operations in the area.

20. The D.C. Office of Business and Economic Development, by memorandum dated January 22, 1991, requested the Board to leave the record open for further information on the feasibility of converting the second floor to office use and attempts to lease the second floor for residential purposes. The Board notes that the use of the second floor of the subject stricture is no longer an issue in the instant case.

21. By letter dated February 12, 1992, and by representative at the public hearing, Advisory Neighborhood Commission (ANC) 6B opposed the granting of a use variance at the subject premises. The ANC representative requested the Board to leave the record open after the public hearing to afford the ANC an opportunity to reevaluate the proposal under the relevant special exception criteria.

22. Two neighboring property owners opposed the granting of a use variance at the subject site by letter and in person at the public hearing. The opposition did not address the issues relative to special exception relief but reiterated their desire to prevent further expansion of nonresidential uses into the residential area of the neighborhood.

23. The Board left the record open to receive a supplemental report from ANC 6B. By letter dated March 12, 1991, ANC 6B supported the application with the following conditions:

- a. that the special exception be granted for three (3) years;
- b. that employed staff at the site shall be limited to eight (8) persons;
- c. that tenant's hours for the delivery of services to clients shall be between to 8:00 a.m. and 6:00 p.m., Monday through Saturday;
- d. that applicant shall seek no change in parking restrictions on "G" Street, in front of the building; and
- e. that any signage identifying the tenant or its services shall be tasteful, and limited to a display from within the building through the windows, and not on the building's face.

FINDINGS OF FACT:

1. The applicant has presented sufficient evidence of its compliance with the criteria set forth in 11 DCMR 2003.1 and 3108.1.

2. The proposed change of nonconforming use will not enlarge or extend the area currently devoted to nonresidential use.

3. The opposition originally expressed by Advisory Neighborhood Commission 6B and the neighbors was not specific to the request for special exception relief. After further review, the ANC determined to support the application with conditions.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception the granting of which requires a showing through substantial evidence of compliance with the criteria set forth in 11 DCMR 2003.1 and that the relief requested pursuant to 11 DCMR

3108.1 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the requisite burden of proof. The Board concludes that it has accorded the Advisory Neighborhood Commission the "great weight" to which it is entitled.

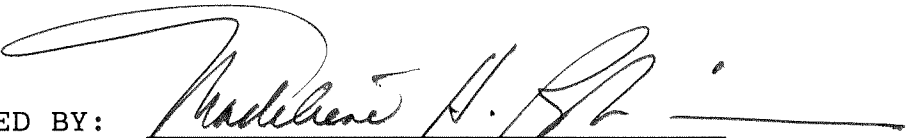
The Board further concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and, as hereinafter conditioned, will not tend to affect adversely the use of neighboring property. Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of **THREE (3) YEARS**.
2. The number of employees at the subject premises shall not exceed eight (8).
3. The hours of operation shall be between 8:00 a.m. and 6:00 p.m., Monday through Saturday.
4. The applicant shall not seek to alter the existing on-street parking restrictions in the immediate vicinity of the subject site.
5. Signage identifying the use shall be nonilluminated and shall be limited to display from within the building rather than on the exterior facade of the building.

VOTE: 3-0 (Paula L. Jewell and Charles R. Norris to grant; John G. Parsons to grant by proxy; Sheri M. Pruitt and Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

AUG 14 1992

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15449


As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 14 1982 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Harry L. Staley, President
J. Kyle Enterprises, Inc.
2000 L Street, N.W., Suite 803
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Tim Westmoreland
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Jamie Platt, Chairperson
Advisory Neighborhood Commission 6-B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003


MADELIENE H. ROBINSON
Acting Director

DATE: AUG 14 1982